

<p>Page 1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 SOUTHERN DISTRICT OF OHIO</p> <p>3 WESTERN DIVISION</p> <p>4 -----</p> <p>5 DOUGLAS W. BAILLIE, :</p> <p>6 Plaintiff, : :</p> <p>7 vs. : CASE NO. :</p> <p>8 CHUBB & SON INSURANCE, : C-1-02-062 :</p> <p>9 Defendant. : :</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 DEPOSITION OF: MICHAEL W. WHITMAN</p> <p>14 TAKEN: By the Plaintiff</p> <p>15 DATE: August 25, 2003</p> <p>16 TIME: Commencing at 2:30 p.m.</p> <p>17 PLACE: Offices of:</p> <p>18 Keating Muething & Klekamp PLL</p> <p>19 1400 Provident Tower</p> <p>20 One East Fourth Street</p> <p>21 Cincinnati, Ohio 45202</p> <p>22 BEFORE: RAYMOND E. SIMONSON</p> <p>23 Registered Merit Reporter</p> <p>24 Notary Public - State of Ohio</p>	<p>Page 3</p> <p>1</p> <p>2</p> <p>3</p> <p>4 I N D E X</p> <p>5</p> <p>6 MICHAEL W. WHITMAN PAGE</p> <p>7 CROSS-EXAMINATION BY MR. NAPIER 4</p> <p>8 EXAMINATION BY MR. MONTGOMERY -</p> <p>9</p> <p>10</p> <p>11 E X H I B I T S</p> <p>12 (No exhibits were marked for identification.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>COMPUTER DISK</p>
<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiff:</p> <p>3 MARK W. NAPIER, ESQ.</p> <p>4 of</p> <p>5 Freking & Betz</p> <p>6 215 East Ninth Street</p> <p>7 Fifth Floor</p> <p>8 Cincinnati, Ohio 45202</p> <p>9 On behalf of the Defendant:</p> <p>10 DAVID K. MONTGOMERY, ESQ.</p> <p>11 of</p> <p>12 Keating Muething & Klekamp PLL</p> <p>13 1400 Provident Tower</p> <p>14 One East Fourth Street</p> <p>15 Cincinnati, Ohio 45202</p> <p>16</p> <p>17 S T I P U L A T I O N S</p> <p>18 It is stipulated by and between counsel for</p> <p>19 the respective parties that the deposition of MICHAEL W.</p> <p>20 WHITMAN, a witness herein, may be taken at this time by</p> <p>21 Counsel for the Plaintiff as upon cross-examination</p> <p>22 pursuant to the Federal Rules of Civil Procedure; that the</p> <p>23 deposition may be taken in stenotypy by the notary</p> <p>24 public-court reporter and transcribed by him out of the</p> <p>presence of the witness; that the transcribed deposition is</p> <p>to be submitted to the witness for his examination and</p> <p>signature; and that signature may be affixed out of the</p> <p>presence of the notary public-court reporter.</p>	<p>Page 4</p> <p>1 MICHAEL W. WHITMAN</p> <p>2 of lawful age, a witness herein, being first duly sworn as</p> <p>3 hereinafter certified, was examined and testified as</p> <p>4 follows:</p> <p>5 CROSS-EXAMINATION</p> <p>6 BY MR. NAPIER:</p> <p>7 Q. Sir, would you state your name for the</p> <p>8 record?</p> <p>9 A. It's Michael W. Whitman.</p> <p>10 Q. And, Mr. Whitman, would you spell your last</p> <p>11 name?</p> <p>12 A. It's W-H-I-T-M-A-N.</p> <p>13 Q. Mr. Whitman, my name is Mark Napier. We met</p> <p>14 just briefly. I represent Doug Baillie in a lawsuit that's</p> <p>15 been filed against Chubb.</p> <p>16 A. Um-hmm (nodding head affirmatively).</p> <p>17 Q. And we've asked you to come here today to ask</p> <p>18 you questions regarding matters that are relevant to the</p> <p>19 lawsuit.</p> <p>20 A. Okay.</p> <p>21 Q. Have you ever given a deposition before?</p> <p>22 A. I've not. This is my first.</p> <p>23 Q. Let me go over a few rules that help make the</p> <p>24 process go a little bit easier. I'm going to be asking you</p>

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1 A. That would have been in -- in May, May
2 2001.
3 Q. Is that your current position?
4 A. That is correct.
5 Q. Do you know Doug Baillie?
6 A. I do know Doug Baillie.
7 Q. How do you know Mr. Baillie?
8 A. He was the Branch Manager of our office for
9 -- I won't state the number of years or months. I can't
10 remember exactly when. But I worked with him in that
11 capacity.
12 Q. Was that in the Cincinnati office?
13 A. In the Cincinnati office.
14 Q. And your position at that time was the
15 Regional Property, Machinery, and Marine Insurance
16 Underwriting Manager?
17 A. Correct.
18 Q. All right. Did you have occasions where Mr.
19 Baillie would perform performance appraisals regarding your
20 job as a department manager?
21 A. Yes, we did, on an annual basis, as is
22 customary at Chubb.
23 Q. Did he ever put you on a performance
24 improvement plan?

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1 A. Yes.
2 Q. Do you know when that occurred?
3 A. The second half of 2002.
4 MR. MONTGOMERY: Did you say 2002?
5 THE WITNESS: I'm sorry. Of the year 2000.
6 Thank you for the correction.
7 Q. Second half of the year 2000?
8 A. 2000, yes.
9 Q. Do you recall what were the issues or
10 concerns that he had that led to you being placed in a
11 performance improvement plan?
12 A. Largely revolved around the balance of my
13 underwriting duties and my regional management duties,
14 trying to improve results in both areas and combine the
15 job.
16 Q. Why don't you describe a little bit about
17 your duties in that position? I have the impression that
18 you had both branch and regional responsibilities.
19 A. That is correct.
20 Q. Okay. Why don't you explain that, if you
21 would.
22 A. The regional position that I held was a new
23 position, not only here in Cincinnati, but also a new type
24 of position that had been developed within Chubb, that was

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1 to combine both management oversight of a particular region
2 for a particular underwriting discipline, and also involved
3 frontline underwriting of accounts within that same
4 territory.
5 Q. All right. So you had both branch
6 underwriting responsibilities as a manager and then
7 regional?
8 A. Correct.
9 Q. What region was that?
10 A. The Cincinnati or Ohio Valley Region. It's
11 been called both.
12 Q. Do you recall what areas Mr. Baillie
13 recommended or sought improvement for you?
14 A. I do not recall specifics at this time. It's
15 two and a half years ago.
16 Q. Okay.
17 A. But, in general, he was trying to help me
18 identify areas that needed to be improved and identify
19 steps for improving them.
20 Q. Did you find that the performance improvement
21 plan did in fact help you improve your performance?
22 A. I will say that the performance did improve
23 during that time.
24 Q. Okay. When you say the performance improved,

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1 in what manner did it improve?
2 A. I was successful in meeting the goals each
3 month that we had set out for me during the six or
4 seven-month period of the coaching program and did receive
5 official notification that I had -- I'm not sure of the
6 right term.
7 Q. Successfully?
8 A. Successfully completed the coaching, you
9 might say rehabilitation program.
10 Q. And this would have been occurring, then,
11 during the year 2000, the second half?
12 A. Yes, sir.
13 Q. Okay. During the time you were in the
14 Cincinnati office, how frequent was your interaction with
15 Mr. Baillie?
16 A. All the managers in our office had relatively
17 frequent interaction with Doug Baillie.
18 Q. What was your opinion of him as a supervisor?
19 A. I think it would depend on the particular
20 aspect of that job that he was performing. I think Doug
21 did well in certain things and maybe not quite as well in
22 others. It would perhaps be a balance.
23 Q. Did you ever complain to any positions above
24 Doug regarding his treatment of you?